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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3984 of 2007
Date of decision: 5.11.2007

The Delhi Diocesan Trust Association **...Petitioner**

Versus

Ashwani Kumar **...Respondent**

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CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Sachin Mittal, Advocate for the petitioner.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order passed by the learned Additional Civil Judge (Senior Division), Karnal whereby application filed by the petitioner for leading secondary evidence was dismissed for the reason that even the existence of the documents sought to be exhibited in secondary evidence could not be proved by the petitioner.

The documents which are sought to be proved by way of secondary evidence are compromise and a deed of licence dated March 10, 1997. It is mentioned about the compromise that the same was effected during the pendency of a suit before the Civil Judge (Senior Division), Karnal. However, it could not be denied by the counsel for the petitioner that factum of the compromise is not mentioned in any of the proceedings in the suit, so referred to in the compromise deed and there is no reason forthcoming as to why the compromise, if so entered into between the parties, was not placed on record in the earlier suit.

As far as deed of licence is concerned the same is sought to be claimed as a copy of the original lost document on the basis of statement made made by one person, who claimed himself to be a witness to the document. However, that person had not signed the document as a witness. Under these circumstances when the very existence of the documents and

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loss is not proved to the satisfaction of the Court, there arose no occasion for the petitioner to pray for permission to lead secondary evidence to prove the same.

Accordingly, concurring with the view expressed by the learned Court below, I do not find any merit in the present petition and the same is dismissed.

November 05, 2007 **(Rajesh Bindal)**
Pka **Judge**